

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

TERRY LEHMAN,

Petitioner,

v.

//

CIVIL ACTION NO. 1:10CV133  
(Judge Keeley)

TERRY O'BRIEN,  
Warden, U.S.P. Hazelton,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION [DKT. NO. 29],  
GRANTING RESPONDENT'S MOTION TO DISMISS, OR FOR  
SUMMARY JUDGMENT [DKT. NO. 16], AND DENYING AND DISMISSING  
PETITIONER'S PETITION WITH PREJUDICE [DKT. NO. 1]

On August 27, 2010, the pro se petitioner, Terry Lehman ("Lehman"), an inmate at U.S.P. Hazelton, filed a petition seeking habeas corpus relief pursuant to 28 U.S.C. § 2241 ("Petition"). His petition challenged the revocation of his mandatory release by the United States Parole Commission ("Commission"). The Court referred this matter to the Honorable David J. Joel, United States Magistrate Judge ("Magistrate Judge Joel"), for initial screening and a report and recommendation in accordance with Local Rule of Prisoner Litigation Procedure 2.

On November 9, 2010, the respondent, Terry O'Brien, Warden of U.S.P. Hazelton ("O'Brien"), filed a motion to dismiss or, in the alternative, motion for summary judgment, seeking the denial of the Petition (dkt. no. 16). On November 10, 2010, the Court sent a

ORDER ADOPTING REPORT AND RECOMMENDATION [DKT. NO. 29],  
GRANTING RESPONDENT'S MOTION TO DISMISS, OR FOR  
SUMMARY JUDGMENT [DKT. NO. 16], AND DENYING AND DISMISSING  
PETITIONER'S PETITION WITH PREJUDICE [DKT. NO. 1]

---

Roseboro notice<sup>1</sup> to Lehman (dkt. no. 21), who filed a response in opposition to the motion (dkt. nos. 23, 26).

On March 7, 2011, Magistrate Judge Joel issued his Report and Recommendation ("R&R"), concluding that, because there was a rational basis for the Commission's factual findings and the revocation of Lehman's mandatory release was not arbitrary, capricious, or based on an abuse of discretion, the Court should grant O'Brien's motion (dkt. no. 16), and dismiss Lehman's § 2241 Petition with prejudice (dkt. no. 1).

The R&R also specifically warned Lehman that his failure to object to the Magistrate Judge's recommendations within fourteen days of receipt of the R&R would result in the waiver of any appellate rights he might have as to these issues. Although Lehman was served with the R&R on March 8, 2010 (dkt. no. 30), he has filed no objections.<sup>2</sup>

---

<sup>1</sup> See Roseboro v. Garrison, 528 F.2d 309, 310 (4th Cir. 1975).

<sup>2</sup> The failure to object to the R&R not only waives the appellate rights in this matter, but also relieves the Court of any obligation to conduct a de novo review of the issues presented. See Thomas v. Arn, 474 U.S. 140, 148-53 (1985); Wells v. Shriners Hosp., 109 F.3d 198, 199-00 (4th Cir. 1997).

ORDER ADOPTING REPORT AND RECOMMENDATION [DKT. NO. 29],  
GRANTING RESPONDENT'S MOTION TO DISMISS, OR FOR  
SUMMARY JUDGMENT [DKT. NO. 16], AND DENYING AND DISMISSING  
PETITIONER'S PETITION WITH PREJUDICE [DKT. NO. 1]

---

Based on Lehman's failure to object to the R&R, and after de novo review, the Court **ADOPTS** the R&R in its entirety (dkt. no. 29), **GRANTS** O'Brien's motion to dismiss or, in the alternative, motion for summary judgment (dkt. no. 16), **DENIES** the Petition, and **DISMISSES** it **WITH PREJUDICE** (dkt. no. 1).

It is so **ORDERED**.

Pursuant to Fed. R. Civ. P. 58, the Court directs the Clerk to enter a separate judgment order and to transmit copies of both orders to counsel of record, and to mail copies to the pro se petitioner, certified mail, return receipt requested.

Dated: April 5, 2011.

/s/ Irene M. Keeley  
IRENE M. KEELEY  
UNITED STATES DISTRICT JUDGE